

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Kevin Embry,

NO. C 09-01808 JW

Plaintiff,

**ORDER REQUESTING FURTHER
REVISED PROPOSED ORDER**

v.

ACER America Corp., et al.,

Defendants.

Presently before the Court is Plaintiff's Motion and Revised Proposed Order Granting Plaintiff's Motion for Preliminary Approval of Class Action Settlement. (hereafter, "Proposed Order," Docket Item Nos. 175, 186.) The Court conducted a hearing on September 19, 2011. Upon review, the Court finds that several revisions to the Proposed Order and Proposed Claim Form are required.

First, in the Proposed Claim Form¹ the parties state that a class claimant opting for Payment Option A must include a proof of purchase showing the new hard drive model the claimant purchased. Based on the Court's concerns with class members being unable to make legitimate claims due to lack of documentation with respect to Option A, the claim form shall be modified to reflect the language in bold as follows:

I am including with this Claim Form a proof of purchase that shows the new hard drive model I purchased, the date and place of this purchase, and the amount I paid. **If an individual receipt is not available, a proof of purchase may also be a bank statement,**

¹ (See Declaration of Seth A. Safier in Support of Motion for Settlement, Ex. A, Docket Item No. 177.)

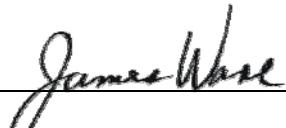
1 credit card statement, or cancelled check that was used to purchase the new hard drive,
2 along with a written description of the hard drive model, date and place of purchase. If
3 submitting a bank or credit card statement, I have highlighted or marked the purchase
that included the new hard drive. I attest under penalty of perjury that this purchase
was made for the purpose of replacing my Acer computer's hard drive.

4 Second, based on the concerns raised by the Court at the hearing, the parties shall revise the
5 Proposed Order to address the question of what relief will be available to those class members
6 whose computers do not have an internal CD drive.

7 Third, upon review of the parties' proposed schedule, the Court finds that it does not allow
8 sufficient time for adequate notice and opt-out periods. Accordingly, the Court moves the Final
9 Fairness hearing date to **January 23, 2012 at 10 a.m.** The Revised Proposed Order shall adjust
10 all other relevant dates accordingly.

11 On or before **September 26, 2011**, the parties shall submit a Revised Proposed Order
12 consistent with the terms of this Order.

13
14 Dated: September 20, 2011



JAMES WARE
United States District Chief Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Adam Gutride adam@gutridesafier.com
3 Adam Joseph Bedel ajbedel@quinnemanuel.com
4 Jeffery David McFarland jdm@quinnemanuel.com
5 Seth Adam Safier seth@gutridesafier.com
6 Stan Karas stankaras@quinnemanuel.com
7 Todd Michael Kennedy todd@gutridesafier.com

8 **Dated: September 20, 2011**

Richard W. Wieking, Clerk

9 **By: /s/ JW Chambers**
10 **Susan Imbriani**
11 **Courtroom Deputy**